

R. M. O. asks the Utah Labor Commission to review Administrative Law Judge Eblen's denial of Mr. O.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

ISSUE PRESENTED

Should a panel be appointed to consider the medical aspects of Mr. O.'s claim.

FINDINGS OF FACT

As material to the issue now before the Commission, the following facts are not in dispute. During December 2001, Mr. O. slipped and fell while working for Forever Homes. He experienced immediate pain in his right knee. Ultimately, he sought treatment for his right knee problems from Dr. Parry, an orthopedic surgeon.

It is Dr. Parry's opinion that a medically demonstrable causal relationship exists between Mr. O.'s work accident and his right knee problems and that Mr. O. has incurred a 7% whole person impairment from his accidental knee injury. On the other hand, Dr. Knoebel, who evaluated Mr. O.'s injury on behalf of Forever Homes, concluded that the accident caused only minor and temporary exacerbation of Mr. O.'s preexisting right knee problems. According to Dr. Knoebel, Mr. O. suffered no permanent impairment from the work accident.

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-601 of the Utah Workers' Compensation Act authorizes the Commission to refer the medical aspects of a workers' compensation claim to an independent medical panel. The Commission has promulgated Rule R602-2-2, Utah Administrative Code, to guide the use of medical panels. As applicable to this case, Rule R602-2-2 provides:

- A. A panel will be utilized by the Administrative Law Judge where:
1. One or more significant medical issues may be involved. Generally a significant medical issue must be shown by conflicting medical reports. . . .

With respect to the need to refer this matter to a medical panel, Mr. O.'s treating physician is of the opinion that Mr. O.'s right knee problems are causally related to his work accident. Dr. Knoebel, on behalf of Forever Homes, disagrees. In view of this conflict among the parties' own medical experts, the Commission's Rule R602-2-2 requires appointment of an independent medical panel to evaluate the medical aspects of Mr. O.'s claim.¹

ORDER

The Commission grants Mr. O.'s motion for review and remands this matter to Judge Eblen for appointment of a medical panel to consider the medical aspects of Mr. O.'s claim, and for such action as Judge Eblen deems appropriate.

Dated this 23rd day of August, 2004.

R. Lee Ellertson, Commissioner

1. The Commission notes that Forever Homes has submitting nothing in response to Mr. O.'s motion for review.